AN ACT OF COMMON COUNCIL

For the better Regulation of the

COURTS of LAW

In the

GUILD-HALL *LONDON.*

Printed by *James Flesher*, Printer to the Honourable City of *LONDON*, 1669.

Commune Concilium tent' in Camera *Guihald'* Civitatis *London* die Lunæ, undecimo die *Octobris*, Anno Domini milleſimo ſexenteſimo ſexageſimo nono, Annóque Regni Domini noſtri *CAROLI* Secundi, Dei gratiâ, *Angliæ*, *Scotiæ*, *Franciæ* & *Hiberniæ* Regis, Fidei Defenſoris, &c. viceſimo primo, coram *Willielmo Turner* Milite, Majore Civitatis *London*, *Samuele Starling* Milite, Majore Electo dictæ Civitatis, *Johanne Frederick* Milite, Aldermanno, *Johanne Robinſon* Milite & Baronetto, Alderm' ac Locumtenente Turris *London*, *Johanne Lawrence* & *Willielmo Peake* Militibus, Aldermannis, *Johanne Howel* Milite, Recordatore dictæ Civitatis, *Richardo Ford* & *Will' Hooker*, Militibus & Aldermannis, *Johanne Forth*, *Franciſco Chaplin*, *Dannett' Forth*, *Will' Fluellin* & *Johanne Randal*, Armig', Alderm', & *Jacobo Edwards* Arm', Alderm', ac uno Vicecomitum Civit' *Lond'*, necnon majore parte Communiariorum de Communi Concil' ejuſdem Civit' tunc & ibidem aſſemblat'.

An Act for the better Regulation of the Courts of Law in the *Guild-Hall London*.

The Antiquity and great conveniency of the Courts in *London*.

Whereas in the City of London there are Courts of Record holden of ancient Cuſtome, that have cognizance of all Actions and Cauſes, both in Law and Equity, ſo that no Citizen need to go beyond the Walls of the ſaid City for ſpeedy Juſtice; which Courts have been in all times ſupplied with able Judges, many of which, for their Worth and Learning, have been advanced to places of great Honour and Dignity within theſe Realms;

And the KINGS and QUEENS of England, out of their great Care, and Princely Respect to the Citizens of London, have from time to time, by their respective Charters, granted and confirmed to the said City divers excellent Privileges and Immunities, which have not been granted unto other Cities; amongst which it is not the least, That no Citizen should plead, or be compelled to plead, without the Walls of the said City, but in some few Cases excepted; and that Pleas should be holden in London for all Debts there made, according to ancient Custome; and that none of the Freedome of the City should be impleaded at the Exchequer, or elsewhere, by Bill, but of those things which concern the KING or his Heirs:

And whereas by several Acts of Common Council of this City, still in force, it is enacted, That no Freeman shall implead another Freeman out of the City for any thing done within the City, where he may have his Recovery before the Mayor and the Sheriffs, upon the Peins therein limited: and whereas every Freeman of this City stands obliged by his Oath, That the Franchises and Customes of the City he shall maintain, and that he shall implead or sue no Freeman out of the City, whilst he may have Right and Law within the same: and yet neverthelesse so it is, that of late years divers Citizens, of all qualities and degrees, (forgetting their said Oaths and the Privileges of the said City) have commenced, and do frequently commence, their Actions in other Courts without this City, or, being commenced within the same, do cause them to be thence removed by Writs, whereby the Courts of Justice within the City of London are not onely slighted, but the said Citizens, aswell for petty Causes

Charters of *H.*1.
d most other Kings
d Queens of *Eng-*
d since the Con-
est, (whereof di-
rs were granted in
rliament,) No Ci-
en shall be com-
l'd to plead with-
t the Walls of the
ty, &c.

d by ancient Acts
Common Council,
e Freemen are pro-
ited to sue one an-
her out of the City,
en they may have
eir Recovery in
eir own Courts, up-
great penalties,
hich have been se-
rely inflicted upon
e Offenders.
he Freemen also
e bound by Oath
their admission to
e Freedome, not to
e one another out
the City, &c.
he contrary not-
thstanding much
ed by Citizens of
te times.

auſes and ſmall Debts as great, are troubled in
ther Courts, to their very great Charge and Vexa-
on:

And forasmuch as the Clerks and Atturnies in the Irregular practices of the Clerks & Atturnies of theSheriffs Courts in commencing and removing Cauſes out of the City, and becoming Bail for their Clients.
heriffs Courts of this City (contrary to ſeveral
rders of the Court of Aldermen, and Acts of this
ourt of Common Council) do either adviſe their
lients, Citizens of London, to commence their
ions in other Courts, or elſe, whenas Cauſes are
epared ready for Trial in the Sheriffs Courts of
e ſaid City, do cauſe them to be removed by Writs
to ſuch other Courts where they are likewiſe At-
rnies, and there their Clients be enforced to begin
on a new Charge, to the great Abuſe of Citizens,
d diſcouraging of the Freemen of the ſaid City to
mmence their Suits in London, where they are
oſt properly determinable:

For remedy hereof for the future, Be it Enacted,
dained and Eſtabliſhed, by the Right Honourable
e Lord Mayor, the right Worſhipful the Alder-
en, his Brethren, and the Commons, in this
ommon Council aſſembled, and by the Authority
the ſame, That no perſon, or perſons, be at any None but Freemen ſhall be admitted Officers, Clerks and Atturnies in the Courts of the City for the future.
me hereafter admitted into any the Places or
ffices of Secondaries of the Compters, Clerks
Atturnies in the Mayors Court, Clerk of the
apers, Clerk-ſitters, Atturnies in the Sheriffs
ourts, of this City, Serjeants or Yeomen of the
ompters, but that he or they do firſt take his or
eir Freedome of this City, according to former
ts and Orders of Common Council.

And forasmuch as it is obſerved, that the Clerks
d Atturnies of the Mayors and Sheriffs Courts of
is City do breed and bring up under them a mul-
ude of young Clerks, taking with them conſide-

rable summs of money, but for shorter terms then hath been accustomed within this City; and that the Atturnies, Clerks and Officers, of and belonging to the Sheriffs of London, and the Sheriffs Courts, do often tender themselves to the Defendants arrested in their Courts, to become their Bail, whereby to oblige them the more to follow their Advice in consenting to the Removal of their Causes and whereby, in case of the Defendants absenting himself, all possible means are used to delay and disappoint the Plaintiffs in their just Suits, to their great wrong, and abuse of Justice:

Inconveniences of Atturnies & Officers being Bail for their Clients.

Be it therefore Ordained, Enacted and Established by the said Lord Mayor, Aldermen, and Commons in this Common Council assembled, and by the Authority of the same, That no person or persons whatsoever be henceforth at any time admitted, or capable to be admitted, a Clerk or Atturny in the said Mayors Court, or in either of the said Sheriffs Courts of this City, before he or they shall bona fide have served some Master-Clerk or Atturny in one of the Courts of this City, as a Clerk, the full term of seven years; And that every or any Grant or Admission, that shall happen at any time hereafter to be made contrary to this Act, shall be null and void, as if it never had been made: And that no Atturny, Clerk, or Officer, of or belonging to the Mayors Court or Sheriffs Courts, or their Clerks or Servants, nor any of them, do or shall, at any time from and after the twenty third day of October instant, presume to become Bail for any person or persons whatsoever, in any Action, Attachment, or other Suit or Cause whatsoever, that shall be entered, commenced, or depending, in the said Mayors Court or Sheriffs Courts; And that neither the Clerk

None shall be admitted a Clerk or Atturny in the Courts unless he have served seven years.

Every Admission to the contrary shall be void.

No Atturnie, Clerk, or Officer, to become Bail.

he Bails in the Mayors Court, nor Clerks of the Papers, nor Clerk-fitters of the said Sheriffs Courts, nor any of them, nor their or any of their Clerks or Servants, nor any other whose duty it is to take the Bails, do presume, from and after the said twenty third day of October instant, to take, accept, and enter upon Record, any of the said Attornies, Clerks, or Officers, or any of their Clerks or Servants, for the Bail of any person or persons whatsoever, or their or any of their Promise or Engagement, to save harmless such Clerk or other Officer, for taking of any other person or persons to be Bail in any Cause whatsoever, to be therein depending.

And to the end that the said City-Courts, as well the Mayors as the Sheriffs Courts, may be supplied from time to time with able and sufficient Jurymen, Be it farther Ordained and Enacted by the said Lord Mayor, Aldermen, and Commons, in Common Council assembled, and by the Authority of the same, That no person or persons whatsoever be at any time hereafter returned, by any the Inquests of the Wards of this City, to serve as Jury-man, or Jury-men, either Grand, or Petty, in the Courts of this City, but such men as either have been, or for time to come shall be, Subsidy-men, and so taxed in the KING's Books; or, in default thereof, such other discreet and sufficient persons as shall be equal in Quality and Estate with them: And that the Issues upon Default of Jury-mens Appearances be constantly levied, and duly and truly answered.

None but Subsidymen, or persons of like quality, to be Jurors.

And wherras the said Court, called the Lord Mayors Court, is an ancient Court of Record, wherein Causes, both of Law and Equity, and also Attachments, are determinable, and the same Court is

The Mayors Court, being a Court of Law and Equity, and superior to the Sheriffs Courts, hath power of Levating Causes out of those Courts.

is ſuperiour to the Sheriffs Courts; And whereas also the Lord Mayor for the time being, of ancient Cuſtome and conſtant practice, hath, and time whereof the memory of man is not to the contrary ever had power and authority, by his Warrant called a Levetur Querela, to remove Cauſes from and out of the Sheriffs Courts into the Lord Mayors Court, without any reſtriction or limitation of time, ſo as the ſame Levetur be brought before the Jury, or any of them, (ſummoned for trial of ſuch Cauſe or Cauſes ſhall be ſworn; And whereas of very late time ſuch Levetur hath been often diſallowed, contrary to the ſaid ancient Uſage, and in Contempt of the ſaid Mayors Court, upon ſeveral new pretences, never heard of till of late time, whereby Clients are neceſſitated (eſpecially where they have cauſe to appeal to Equity) to remove their Suits out of London into other Courts, whereas they might otherwiſe be relieved in the Lord Mayors Court, with far leſſe Charge and greater Expedition:

No Judge or Clerk of the Sheriffs Courts ſhall diſallow any *Levetur* brought before the Jury ſworn.

For remedy hereof it is Ordained, Enacted and Eſtabliſhed, by the ſaid Lord Mayor, Aldermen, and Commons, in this Common Council aſſembled, and by Authority of the ſame, That at all times hereafter the ſaid Warrant of Levetur Querela, under the hand of the Lord Mayor or Recorder of the City of London for the time being, for removing of any Plaint, Attachment, or other Cauſe or Cauſes, levied or depending in either of the Sheriffs Courts of this City, into the Mayors Court, (being brought by a Serjeant at Mace and Miniſter of the Mayors Court to the ſaid Sheriffs Courts, either at the Guild-Hall or Compter, at any time before the Jury or any of them, ſhall be ſworn for trial of ſuch Cauſe or Cauſes,) ſhall be preſently obeyed and allowed of

And

And that neither the Judge, nor any Clerk or Offi-cer, of either of the said Sheriffs Courts, do at any time hereafter presume to reject or disallow of any such Levetur Querela, so brought or tendered unto him or them, upon any pretence whatsoever, other then in case of a farther Order or Warrant, by and under the Hand of the Lord Mayor or Recorder for the time being, in that behalf first had and obtained, as anciently hath been used and accustomed.

The Novel device of Continuances condemned and remedied.

And to prevent the daily Inconveniences happening in Suits now depending, or hereafter to be depending, in the Courts of the said Sheriffs, by reason of the great Delays they met with there by putting off of Causes, under pretence of Continuances entered by the Attornies on both sides, for the most part at the very time they should be tried, without the Consents of the Parties Clients, contrary to the ancient practice and usage of the said Courts, whereby the Client is delayed, Witnesses and Jury-men discouraged, by frequent and fruitless Attendances, to the intolerable Expence of the Suitor: For the preventing hereof for the future,

Be it Enacted by the said Lord Mayor, Aldermen, and Commons, in this Common Council assembled, and by Authority of the same, that no Cause or Causes in either of the Sheriffs Courts be at any time hereafter, from and after Issue joyned, put off from Trial by pretence of any such Continuances entered, or hereafter to be entered, by consent of the Attornies on either part, but upon motion thereof first made in open Court, and for some just and reasonable cause to be shewed and allowed upon Oath before the Judge of the same Court, and upon pay-

ment of such Costs to the party thereby delayed as the Court shall see cause to tax and allow; And that no Clerk do henceforth presume to enter any Continuance in any Cause summoned for Trial, without the special Order and Directions of the Judge of the Court in that behalf first had, as aforesaid; And that no Fee be henceforth demanded, taken, or allowed, by or to any of the Atturnies of the Sheriffs Courts aforesaid, for or in respect of the putting off of any Trial, under the pretence of such Continuance entered, or hereafter to be entered, as aforesaid, upon pein, that every Atturny so demanding, taking, or receiving, shall for every such Offence, for the first time, forfeit the summe of five pounds, and for the second, to be finally discharged of and from his place of Atturny in the said Sheriffs Courts.

No Fee upon a Continuance.

Penalty.

And to prevent the great Mischiefs now daily growing and increasing in the said Sheriffs Courts by excessive Costs taxed upon Judgements there given, by the consent, for the most part, of the Atturnies of both sides, contrary to the usage of all former Ages, Be it Enacted by the said Lord Mayor, Aldermen, and Commons, in this Common Council assembled, and by Authority of the same, That no Bill of Costs, exceeding the summe of four and twenty shillings for the Trial of a Grand-Jury Cause, or exceeding the summe of twenty two shillings for the Trial of a Petit-Jury Cause, shall at any time hereafter charge the Client of either side: Nevertheless it shall and may be lawful for the Judges of the said Courts respectively, for good and reasonable cause shewed to them respectively by the Parties of either side, upon due examination of the

What Costs shall be taxed in the Sheriffs Courts, and how, for avoiding the present Abuses in that case.

the circumstances of the Case, (in the presence of both Parties,) to increase the said Costs of Suit by their discretions, by special Rule of Court to be entered for that purpose, expressing the cause why such Costs are so increased: And upon complaint made by any person of greater Charges then as aforesaid, and producing the Bill under the Attornies hand, or other Witnesse, that the respective Judges of the same Court punish the Offender, and relieve the party grieved, according to their good discretions, and the Rules aforesaid: And that no Officer of either of the said Courts shall presume to make out Execution upon any Judgement, wherein the Costs of Suit shall exceed the summs aforesaid respectively, without such special Rule as aforesaid to warrant the same, on pein to forfeit for his first Offence five pounds, to the relief of the Prisoners of that Compter wherein the Action shall be entered; and for the second Default, to be expelled the Court for ever. Penalty.

And to prevent the daily Abuses of the Serjeants and Yeomen of the Sheriffs, sometimes in permitting persons arrested by them to goe at large without Bail, sometimes in keeping them in Ale-houses, or some other private places, and not returning the Processe in due time (by which the parties were arrested,) so that the Plaintiff is delayed, and the Prisoner, by the extortion of the said Serjeants and Yeomen, oftentimes put to a greater Expence then will discharge the originall Cause of Action, and sometimes by discharging persons by them duly arrested, without causing the Actions whereon they were so arrested to be withdrawn, although they take money from the Defendant sufficient to do the same with, and some- For redresse of sundry Abuses committed by the Serjeants and Yeomen.

times in not duly returning Executions by them executed, or by discharging persons taken in Execution before Satisfaction be entered upon Record, whereby the said persons are oftentimes doubly charged for the same Debt; Be it therefore Enacted by the Authority aforesaid, That the Serjeants and Yeomen of the said Sheriffs, and every of them, shall from time to time, and at all times hereafter, make due Returns into the said Sheriffs Courts of all the Precepts of the said Courts to them to be directed, at the next Court after the Execution of the same Precepts: and that all persons by them to be arrested by virtue of the said Precepts, or any of them, shall be either delivered upon good and sufficient Bail, or, in default thereof, by him or them committed to some of the Prisons within the said City, at or before the next Court to be holden after such Arrest so to be made, to the end the party Plaintiffe may proceed in his Action according to Law: and that none of the said Officers presume to discharge any person or persons so by him arrested, after Agreements made between the parties, till such time as the said Officer shall have caused either the Action to be withdrawn, or Satisfaction to be acknowledged on Record, as the case shall require. And if any of the said Officers shall hereafter offend in any of the cases aforesaid, and shall be thereof convicted by Examination of the Judge in open Court, upon complaint of the parties grieved, or, in default thereof, by any other who shall inform the same, That then, and in every such case, the said Officer or Officers so offending shall, for the first Offence, be by the said Judge forth-

forthwith committed to the Compter, there to remain till he shall have paid down the summe of five pounds, the one moiety to the party grieved, or, in default of Information to be given by him or them, as aforesaid, then to such other person or persons who shall inform the same to the said Court, over and besides such Remedy as the said party grieved may have by his or their Actions at Law against the said Officers, or any of them, for any of the Defaults aforesaid, and the other moiety to the relief of the poor Prisoners in such of the said Compters wherein the said Cause is or shall be entered: and if any of the said Officers, after he or they shall have been once convicted of any of the Offences aforesaid, shall presume to offend in any of the said cases the second time, and be thereof convicted, as aforesaid, That then, and in every such case, the said Offender, over and above all other Penalties herein above limited and appointed, shall be ipso facto absolutely discharged from his said Office; and the Sheriffs of the City for the time being are hereby impowered and required to nominate and present to the Court of Aldermen some other fitting person, to be by them admitted in his or their places, as if the persons so offending and convicted, as aforesaid, were naturally dead.

Provided alwayes, that no Informer shall be any wayes intituled to the moiety of the said five pounds, or any part thereof, unlesse the said Of-

tender shall be convicted by the Evidence of one or more persons indifferent, and unconcerned to the profit or prejudice coming by the Default of the said Officer.

Avery.

Printed by *James Fleſher*, Printer to the Honourable City of *LONDON*, 1669.